

Chapel Seeks Comments On State Obscenity Law

By CHARLES E. CHAPEL
Assemblyman, 46th District

I am very grateful to the thousands of voters of both political parties who voted for me and I am also grateful to the thousands who are registered as "decline to state." In addition, I appreciate the support of the several hundred who are classified by the Registrar of Voters as "Miscellaneous." I am especially anxious to send my gratitude to the thousands of men, women, and even children of both political

parties who devoted long hours to telephoning, personally calling on people, addressing envelopes and folders, stuffing folders, and accomplishing all the other countless jobs which add up to victory.

All those who donated to my campaign expenses, of whom I have knowledge, either have received or will receive soon my personal letter of thanks. Each letter is personally typed by my secretary and signed by me. If you donated and did not receive a letter of thanks, by all means write to me at Post Office Box 327 Redondo Beach. Incidentally, those who sent one dollar received the same letter as those who sent larger sums.

Office Box 327 Redondo Beach. After that, it will be Room 4001, Assembly Chambers, State Capitol, Sacramento 14, Calif., until sometime in June, 1963, when we adjourn and come home.

THE STATE of New York has in its Code of Criminal Procedure, Section 22-a, a provision for enjoining the sale or distribution of obscene matter. In an action against a particular named defendant. This New York law has been held valid by the United States Supreme Court insofar as it relates to

obscene matter in the case of Kingsley Books vs. Brown, 354 U.S. 436, 1 L. ed. 2d 1469, according to A. C. Morrison, Legislative Counsel, State of California, in his Opinion No. 4333, signed at my request on July 16, 1962.

The Legislative Counsel in the same official Opinion also told me: "To the best of our knowledge New York does not have a law providing for proceedings against an alleged obscene matter 'in rem'."

This Opinion of the Legislative Counsel clarifies a popular misunderstanding to the effect that New York has what the lawyers call an "in rem" law regarding obscene matter. The legal phrase "in rem" means "against the thing." It is applied to legal actions where the direct object is to reach and dispose of specific property within the jurisdiction of the court, or of some interest in such property.

The "IN REM" type of legal procedure must be distinguished from what the lawyers call "In Personam," which means "against the person."

An "In Personam" proceeding is applied to actions where the direct object is to impose upon the defendant a personal obligation to obey an order, judgment, or decree of the court.

The Legislative Counsel of the State of California in the above-mentioned Opinion No. 4333, in answer to one of my questions said: "We cannot express any opinion on the desirability or undesirability of having an 'in rem' statute. It is our recollection that the argument has been made that an 'in rem' proceeding would be more humane than a provision for criminal prosecution of sellers in that an article could be determined to be obscene without at the same time causing anyone to be convicted of a crime."

ately placed in jeopardy, in many cases no one will go to the trouble and expense of defending the article, and thus worthy articles may be prohibited by default."

The Legislative Counsel in the same Opinion also said: "As for the injunctive type statute, such as (referring to New York law mentioned above), the arguments of proponents presumably would be that it more expeditiously operates to prevent distribution of the article."

OPONENTS, we gather, consider such a statute obnoxious as a prior restraint and in the nature of a censorship statute (See Kingsley Books v. Brown, supra)."

For the benefit of anyone not familiar with legal jargon, the word "supra" merely means "above" and refers to the U.S. Supreme Court case already mentioned. Your ideas about laws regarding obscene (pornographic material) should be mailed to me with specific recommendations for the law or laws you want or do not want.

We can do more good by being good than in any other way.—Rowland Hill

PRESUMABLY it could be argued that an 'in rem' proceeding would be desirable because in the area in which the decree would have force, obscenity of an article could be determined for all sellers at one time. It is also our recollection that the argument has been made that if a proceeding is against an article, such as a book, rather than against a person, there is good chance that, because no person is immedi-

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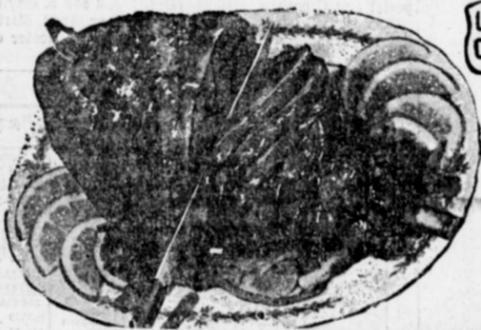


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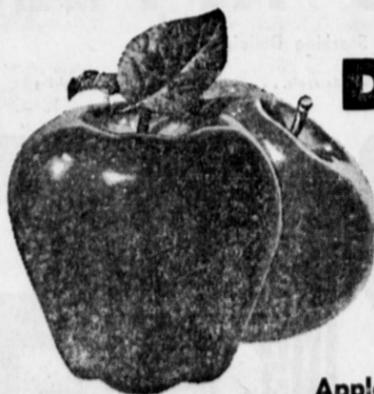
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By FRED NEHER



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